STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North Shore Gas Company	)	
	)	
The Peoples Gas Light and Coke Company	)	
	)	ICC Docket Nos.
	)	16-0033 and 16-0034 (cons.)
Proposed Addition of a New Service	)	
Called Rider Purchase of Receivables	)	

BRIEF ON EXCEPTIONS AND EXCEPTIONS OF THE PEOPLE OF THE STATE OF ILLINOIS

People of the State of Illinois
By Lisa Madigan, Attorney General

Janice A. Dale
Chief, Public Utilities Bureau
Karen L. Lusson
Assistant Bureau Chief
Illinois Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
Telephone: (312) 814-3736 (Dale)
Telephone: (312) 814-1136 (Lusson)
E-mail: jdale@atg.state.il.us
klusson@atg.state.il.us

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The People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois ("the People"), hereby file their Brief on Exceptions and Exceptions in the above-captioned proceeding in accordance with the schedule established by the Administrative Law Judge ("ALJ").

I. INTRODUCTION

Notwithstanding the well-reasoned and supported arguments presented by the People and the Citizens Utility Board ("CUB") against Commission approval of proposed Rider Purchase of Receivables ("Rider POR") filed by the Peoples Gas Light & Coke Company ("PGL") and North Shore Gas Company's ("North Shore") (collectively "the Companies"), the Proposed Order sides with the Companies' request to approve the tariff. Proposed Order ("PO") at 33. The Commission should reject this conclusion. Rider POR is not strictly tailored to deliver or improve utility service to utility customers. Rather, it is designed to provide a service to alternative retail gas suppliers ("ARGS") pursuant to a settlement agreement between a trade association, the Retail Energy Supply Association/Illinois Competitive Energy Association ("RESA/ICEA/ICEA"), and the Peoples Gas and North Shore utilities to engage in discussions related to the offering of a POR tariff.[1] As a result of those discussions conducted with RESA/ICEA (the merger condition did not require the submission of a POR tariff), the utilities have submitted the instant tariff to the Commission for its approval, along with supporting testimony that describes the purpose and operation of the rider. The utilities, however, provided no evidence of customer benefit or a reason for the Commission to conclude that approval of the tariff was just and reasonable.

As the People and CUB highlighted in briefs, unlike most tariffs presented to the Commission for regulatory approval, the utilities' endorsement of its Rider POR is decidedly underwhelming. Instead of describing how the rider will provide direct benefits to its customers, North Shore and Peoples have limited their own evidentiary support for their own tariff to a mere technical description of its mechanics. Rather than having the utilities as its chief proponent, Rider POR is being championed in this docket by its chief beneficiaries – the alternative retail gas suppliers that compete with North Shore and Peoples in selling natural gas supply to residential and small commercial customers. Representatives of the alternative gas supply industry have not hesitated to posit their problems with bad debt, collections costs and alleged inability to market to customers with poor credit histories as the true rationales behind this proposal. While the ARGS industry representative who testified promises Rider POR will reduce costs for the industry and thereby give alternative suppliers the ability – but distinctly not the obligation – to lower prices for their customers, there is no evidence supplied that this will in fact occur. Instead, as documented in the testimony of CUB witness Bryan McDaniel, the benefits of Rider POR for consumers are purely theoretical and the risks are all too real. In fact,

[1] In its Final Order approving a reorganization of the utilities in this case in ICC Docket No. 14-0496, the Commission incorporated an agreement between RESA and Peoples Gas/North Shore to discuss a purchase of receivables tariff as described in testimony filed by Peoples Gas in ICC Docket No. 14-0224/0225. Order dated June 24, 2015, Appendix A, Condition 44 at 7 (Peoples/North Shore Merger Order).

alternative suppliers relieved of collection responsibilities face no risk in *raising* prices, including to the most vulnerable customers. The utilities have even suggested that if the carrying charges included in their POR proposals are not accepted, they could, in the future, seek rate base treatment of POR program assets at levels of return that exceed the actual risks associated with program investments. The record evidence in this case not only fails to demonstrate the benefits of this tariff to ratepayers, it clarifies the risks to ratepayers of higher gas prices, increased customer disconnection of low income customers and more rapid depletion of Low Income Heating Assistance Program ("LIHEAP") dollars.

The People urge the Commission to reject Rider POR as a just and reasonable tariff, as its features were never intended to promote the interests of ratepayers, or even the companies. The tariff filing is now before the Commission only because Peoples/North Shore agreed to submit it following discussions with alternative energy providers. As discussed further below, and in the AG's Initial and Reply briefs, the People urge the Commission to enter a final order that rejects Rider POR..

II. ARGUMENT

A. The Companies Failed To Prove That Rider POR Is Just and Reasonable.

At page 33, the Proposed Order concludes that Rider POR "protects customers and non-participating suppliers from any adverse consequences." Proposed Order ("PO") at 33. The PO concludes that ICEA/RESA and Staff identified potential benefits of the program for customers and suppliers. *Id.* The Proposed Order "finds compelling" components of the rider that "will protect customers and non-participating suppliers form cost responsibility for the service" through credit assurances and the requirement that those suppliers that use the service pay for the cost of developing the Companies' system functionality. *Id.* The Commission should reject these findings.

First, in order to be deemed just and reasonable, a rate must be just and reasonable to both the utility and customers, alike. *Business and Professional People for the Public Interest v. Illinois Commerce Comm'n,* 146 Ill.2d 175, 208, quoting 220 ILCS 5/9-201(c) ("The Commission is charged by the legislature with setting rates which are "just and reasonable"…to the ratepayers [and] to the utility and its stockholders.")

The Commission cannot fulfill its statutory duty to balance the competing interests of stockholders and ratepayers without taking into account the interests of ratepayers by considering the impact of proposed rates on ratepayers. *Citizens Utility Board v. Illinois Commerce Comm'n.* 276 Ill.App. 730, 737 (1995). Moreover, the Illinois Appellate Court stated the benefit of the balance between stockholders and ratepayers must favor ratepayers:

> The Commission has the responsibility of balancing the right of the utility's investors to a fair rate of return against the right of the public that it pay no more than the reasonable value of the utility's services. While the rates allowed can never be so low as to be confiscatory, within this outer boundary, if the rightful expectations of the investor are not compatible with those of the consumer public, it is the latter which must prevail.

Camelot Utilities, Inc. v. Illinois Commerce Comm'n., 51 Ill.App.3d 5, 10 (1977).

As documented in the People's Initial and Reply briefs, the utilities proposing the tariff, Peoples Gas and North Shore, make no claims whatsoever regarding the impact of their tariffs on customers. Utility witnesses testifying in support of Rider POR do not offer evidence of customer benefits, and in fact focus their testimony not on the benefits it is expected to provide for customers, but on the advantages it will give alternative retail gas suppliers. Although the burden to demonstrate that its tariff will have a positive impact on customers falls clearly on Peoples and North Shore, neither the testimony of NSG/PGL witnesses Egelhoff, (NSG/PGL Ex. 1.0 and 3.0), nor Julian (NSG/PGL Ex. 2.0), present opinions on how Rider POR balances the utility's interests with those of its customers. In fact, Ms. Egelhoff admits in her Direct testimony that the utilities' proposal in this case is the result of a demand by alternative suppliers, not customers. NSG/PGL Ex. 1.0 at 11. The Commission is left to wonder: exactly who will Rider POR benefit? The evidence certainly does not point to ratepayers. Although the Proposed Order concludes that other parts of the rider proposal -- namely how disputed charges, credit reporting, and payments are handled -- are fair to customers and suppliers (PO at 33), the evidence suggests that PGL/NS customers will likely be hurt by the approval of Rider POR, as discussed below.

B. The Record Lacks Evidence that Approval of a POR Tariff Will Provide Tangible Customer Benefits.

As noted above, PGL/NS failed in its burden of proving that its proposed tariff is reasonable – a burden that cannot be shifted to other parties. The Proposed Order concludes, however, that evidence supplied by RESA/ICEA and Staff alluded to potential customer benefits, thereby filling that evidentiary vacuum. PO at 33. But RESA/ICEA's claims that customers will benefit from the approval of a POR tariff are simply not credible**.**

As the Commission has specifically rejected as evidence of justness and reasonableness of a tariff speculative claims about what might happen if a POR tariff is approved. In its Order in ICC docket 12-0569, the Commission evaluated a POR tariff for Nicor Gas Company ("Nicor"). The Commission considered Nicor's testimony that it was not in a position to assess whether a POR tariff would provide benefits to consumers. The Commission concluded that the utility's failure to assess consumer interests in its own tariff precluded the utility's ability to prove that its proposal would benefit its customers, even in light of testimony to that effect from other parties.[2]

In the instant docket, attempts by RESA/ICEA to speculate about the benefits that might come to ARGS customers should a POR tariff be approved are not a sufficient basis for concluding that the tariff is just and reasonable. The same evidentiary vacuum as existed in the Nicor docket exists here. In particular, RESA/ICEA claims that the POR will ultimately benefit customers because of (1) less customer confusion over receiving two separate bills (one from the utility and one from the supplier); and (2) a reduction in account collection costs for the ARGS that "will be passed on to customers through lower prices and more diverse products offered by AGS." RESA/ICEA Ex. 1.0 (Wright Direct) at 11-12. These claims are little more than hollow rhetoric, and not the basis for finding the proposed POR tariff to be reasonable.

First, as noted in the AG Initial Brief, not a single supplier provided evidence in this docket that described how the absence of a POR tariff confuses customers. RESA/ICEA witness Wright's testimony that customers may be confused by the fact that utility service continues in the wake of an ARGS discontinuing service[3] is not necessarily confusing, since the ARGS is not the delivery service company. Second, no ARGS submitted testimony describing how the costs of collection activity would be reduced by the existence of a POR tariff. The level of the alleged cost differential between collections costs under the status quo versus a POR environment is critical to the Commission's assessment of RESA/ICEA's broad claims that the collections "savings" will be significant enough to impact product price and service offerings. Such evidence is non-existent in this record.

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[2] *See* ICC Docket No. 12-0569 *("Nicor POR Order") at 18 (emphasis added).*

[3] RESA Ex. 1.0 (Wright Direct) at 8.

Likewise, no ARGS (nor RESA/ICEA) provided specific evidence that particular plans or monthly per therm rates would decline as a result of approval of the POR tariff. This fact was highlighted in CUB Cross Ex. 1, wherein RESA/ICEA was asked in CUB data request 2.01, on behalf of each member supplier, to identify how "savings" will be passed on to its customers within the PGL service territory. In its response, RESA/ICEA stated that RESA/ICEA was "not in possession or control of any documents or information responsive to this data request." CUB Cross Ex. 1. Instead, RESA/ICEA relied upon the same general "economic theory" that "there will be pressure on each market participant to maximize value to the customer." *Id.*

Indeed, as noted earlier in this Brief, PGL/NS failed to back the theoretical supposition of RESA/ICEA's claims. In its Rebuttal case, PGL/NS specifically noted that it had not analyzed the possible effect of Rider POR on retail gas costs as part of their development of the proposed rider. PGL/NS Ex. 3.0 (Egelhoff Rebuttal) at 3.

RESA/ICEA witness Wright also claimed that a POR program would benefit customers because more ARGS will be able to enter the market due to the alleged unspecified reduction in collection costs, thereby leading to the purported reduction in prices. RESA/ICEA Ex. 1.0 at 12. However, that claim is contradicted by the Commission's Office of Retail Market Development 2016 report on retail electric competition, a market area that includes statutorily permitted POR tariffs. As noted by Mr. McDaniel, that report, which details the increase in the number of suppliers and the annual growth and recent decline in the number of customer subscriptions to ARES offers since 2012, both individually and through municipal aggregation, shows that in the June, 2015- May, 2016 time period, ARES customers paid $79.7 million *more* than their counterparts on utility bundled supply rates. CUB Ex. 2.0 at 8. Thus, as noted by Mr. McDaniel, an increase in the number of alternative energy suppliers does not translate into better prices for consumers. *Id.* at 9. The bottom line is that RESA/ICEA's claims that the approval of a POR tariff will somehow produce significantly lowered prices and improved customer terms simply is not credible in the face of substantial evidence that the ARGS rates are precipitously higher than the utility-bundled supply charges.

Staff's testimony likewise was equally speculative. Staff witness David Rearden states that he does not oppose Rider POR, but only offers in support of that opinion the unverified observation that "it does not seem likely that it will raise prices in the retail market…" ICC Staff Ex. 1.0 (Rev.) at 3. He states that since suppliers using the service would be required to provide an irrevocable letter of credit to share program costs, ratepayers are insulated from directly paying for the service. ICC Staff E. 1.0 (Rev.) at 4. But he describes no feature of the tariff that ensures the costs of the program would not be factored into higher supplier prices. Mr. Rearden further asserts his view that suppliers' belief that Rider POR will provide bill collecting services at lower cost than is now the case to be "a reasonable belief," but he further admits that he is not aware of any studies demonstrating this belief to be true. ICC Staff Ex. 1.0 (Rev.) at 5.

None of this evidence is sufficiently substantive to support the tariff, and even if it were, it would not change the fact that Peoples and North Shore have failed to meet their burden of proof to demonstrate that Rider POR is worthy of a "just and reasonable" designation. The Commission should apply the same customer benefit principles in the instant case as it did in the Nicor case. North Shore and Peoples Gas failed to present substantive evidence that their tariff proposals are just and reasonable, and that they appropriately balance the interests of utilities and ratepayers. There simply is no evidence to support any claim that the proposed tariff is reasonable, contrary to the conclusion of the Proposed Order.

C. Contrary to the Conclusions of the Proposed Order, Customers Will Be Harmed by Commission Approval of Rider POR.

In its rejection of the arguments presented by the AG and CUB against approval of Rider POR, the Proposed Order states, "This proceeding is not about the merits of choice programs in general or Peoples Gas Choices For You program in particular." PO at 33. The ALJ notes that "customers are free to choose – or not -- to purchase gas from alternative suppliers." *Id.*

While that may be true, PGL/NS customers nevertheless are unwittingly harmed by ARGS rate offers. CUB witness Mr. McDaniel testified that in his 10 years of experience working at CUB, low income customers are especially susceptible to claims of savings or "price protection" – a phrase often used in ARGS marketing of "fixed rate" and other ARGS plans. *Id.* As Mr. McDaniel testified, ARGS rates – which are unregulated -- are consistently higher than the utilities' supply rates, which are regulated. Each year, the Companies' supply charges collected from PGL/NS customers are reconciled with actual costs, without a mark-up for margin, with costs evaluated based on a prudence standard. With ARGs offerings, it is buyer-beware.

Mr. McDaniel provided specific evidence, for example, that Peoples Gas's and North Shore's purchased gas supply costs have been relatively steady and at historically low levels over the last year-and-a-half. CUB Ex. 1.0 (McDaniel Direct) at 5-6. At the time of the filing of his Direct Testimony, for example, the PGL bundled supply rate was $0.24 per therm. *Id.* at 6. In contrast, the lowest-priced ARGS offering listed on the Commission's website would pay 52% and 36% more, respectively, than PGL's and North Shore's bundled supply rates. *Id.* The highest offer listed in May, 2016 from Ambit Illinois, offered a variable rate of $0.90408 per therm, some 375% than PGL's $0.24 per them rate. *Id.*

In addition, Mr. McDaniel testified that he has observed from a variety of sources that, like the May rate identified above, ARGS offers are consistently higher than the utility supply rate. *Id.* at 6-7. CUB Exhibits 1.1 and 1.2, attached to Mr. McDaniel's Direct testimony, detail the ICC-published ARGS offers, which "are all above the applicable utility (supply) rate, with some being significantly higher." *Id.* at 7.

Why is this information critical? Because RESA/ICEA witness Wright made clear who stands to benefit from a POR tariff – ARGS. The POR tariff provides ARGS something the General Assembly to date was unwilling to permit: guaranteed revenues in the face of the threat of disconnection from the utility network. Specifically, RESA/ICEA witness Wright noted:

> …utilities are better suited for collections because they have greater recourse in the event a customer does not pay. The utility can shut off a customer's gas supply for non-payment whereas an AGS cannot shut off delivery of gas to the customer's home.

RESA/ICEA Ex. 1.0 (Wright Direct) at 7. PGL/NS witness Jerard Julian made clear what this means for ARGS customers – many of whom have fallen victim to high-priced ARGS plans that greatly exceed the utility supply cost to compare:

> It is no different than if a (bundled) sales service customer failed to pay his bill in full. For example, if a sales customer paid only a portion of his bill and advised the company that he was not paying the gas cost part (or any other tariff service part) of the bill, the customer would be subject to service disconnection.

PGL Ex. 2.0 (Julian Direct) at 7.

As noted in the AG Initial Brief, while RESA/ICEA unequivocally views this collections stick as a benefit for its members, the reality is that this change in ARGs collection procedures only stands to increase the already high uncollectibles rates that exist in the PGL service territory. Testimony from RESA/ICEA that it plans to extend its marketing of ARGS plans from only “the best paying customers” to “credit-challenged customers” should give the Commission pause. RESA/ICEA Ex. 1.0 at 14. Approval of a tariff that will enable ARGS to peddle their higher-priced supply offerings to customers with no worry of revenue collection responsibility should give the Commission pause.

This plan could make a bad uncollectibles situation in Peoples Gas service territory even worse. Recent PGL data included in testimony filed by the Attorney General’s Office in ICC Docket No. 14-0224/0225 (PGL/NS 2014 Rate Case) reported that, in a recent 12-month period, 230,000 PGL accounts received disconnection notices, 77,000 PGL accounts were actually disconnected, and 80,000 PGL accounts enrolled in LIHEAP. CUB Ex. 1.0 at 7, citing ICC Docket No. 15-0224/0225, AG Exhibits 10.2, 10.3.

These facts are exacerbated by the extremely high numbers of Peoples Gas customers who are living at or below the federal poverty level, as noted in the AG Initial Brief at page 15. For example, as noted by CUB witness McDaniel, 34% of PGL customers live below 150% of federal poverty limits. CUB Ex. 1.0 at 7. Commission approval of a POR tariff for Illinois ARG suppliers creates uncharted territory, given the fact that no other gas utility in Illinois has a POR tariff.

In addition, as highlighted by Mr. McDaniel, the Commission has reason to particularly examine the potential impacts of POR tariffs on PGL customer rates. First, PGL customers are currently paying the highest delivery service customer and per therm rates in the State after a succession of rates cases that began in 2007, resulting in a cumulative compound rate increase of 73.8% over the last seven years. *Id.* In addition, PGL continues it Accelerated Main Replacement Project, which has been the principal driver of those rate increases. As noted by Mr. McDaniel, these increased delivery service rates, when combined with higher uncollectibles attributed to ARGS will only aggravate the effect of unaffordable ARGS supply rates. CUB Ex. 1.0 (McDaniel Direct) at 8.

Again, if approved, Rider POR creates a ceiling on the amount of uncollectibles paid by a POR supplier by shifting the risk of revenue recovery to the Utilities. As such, ARGS have no disincentive – and likely an incentive – to market their plans in ways that increases ARGS uncollectibles. CUB Ex. 1.0 at 8-9. As noted below, RESA/ICEA/ICEA witness Wright confirmed this to be a real possibility, if not a probability.

D. Approval of Rider POR Exposes Low Income Customers In Particular to Harm.

Commission approval of a POR tariff for Illinois ARG suppliers creates uncharted territory, given the fact that no other gas utility in Illinois has a POR tariff. Given this fact, the Commission's analysis of the Rider POR proposal should include an examination of other state public service commission's experience with ARGS behavior and the impact on customer rates – particularly in light of testimony from RESA/ICEA that it plans to extend its marketing of ARGS plans from only "the best paying customers" to "credit-challenged customers." RESA/ICEA Ex. 1.0 at 14.

As noted in CUB witness McDaniel's Rebuttal testimony, the New York Public Service Commission ("NYPSC") recently issued a moratorium on Energy Service Companies' ("ESCO", the equivalent to Illinois' reference to "ARGS") enrollments and renewals by participants in a utility low-income assistance program (Assistance Program Participant or "APP") in the retail gas market due to the NYPSC's concern that mas market customers, including APPs, were not receiving beneficial service from ESCOs, and "the higher prices charged by ESCOs often exceed the amount of the assistance provided to the APP, and thus the goal of reducing that customer's bill is undermined." CUB Ex. 2.0 at 12. That ruling, attached as CUB Ex. 2.1, concluded that "[t]his moratorium is necessary to ensure that the financial benefits provided to APPs through utility low-income assistance programs are not absorbed by ESCOs, who in turn, provide gas and electricity at comparatively higher prices, without any corresponding value to the APP." *Id.,* citing *Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy markets in New York State* – Case No. 12-M-0476 (cons.), New York Public Service Commission Order of July 15, 2016 at 10.

While the New York Supreme Court recently issued a temporary restraining order on implementation of the ban pending full argument before the court on the merits of the ESCO's appeal[4], the action of the New York PSC should give the Commission pause before approving Rider POR. RESA/ICEA witness Wright's pronouncement that approval of Rider POR will enable the expansion of the competitive gas supply market to financially-troubled customers[5]; and (2) CUB witness McDaniel's concern that "the impact on customers enrolled in LIHEAP could be significant"[6] are evidence enough that the Commission tread cautiously on approving a POR tariff for ARGS. As Mr. McDaniel explained, to the extent that Rider POR leads to more customers subscribing to higher POR supplier rates by virtue of aggressive marketing tactics by ARGS freed of collection worries, total LIHEAP program dollars would be expended more quickly, leaving fewer PGL/NS customers able to access the funds.

Staff witness Reardon suggests that the Commission could "monitor the market" to test the legitimacy of these concerns. Staff Ex. 4.0 at 9. A version of this recommendation was adopted in the Proposed Order. PO at 34. While well-meaning, this proposal is hardly proactive and assumes the best of a market that to date has shown itself to be generally higher-priced than

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[4] *See* http://www.powermarketstoday.com/public/New-York-high-court-pauses-lowincome-shopping-ban.cfm

[5] RESA/ICEA Ex. 1.0 at 14.

[6] CUB Ex. 1.0 at 8.

the supply rates available from a customer's utility, placing thousands of PGL/NS customers at financial risk. Again, the essential nature of utility gas delivery service argues for a more cautious approach.

The substantial evidence in the record shows no tangible customer benefits associated with the approval of Rider POR. The Commission should not wager the financial security of "credit-challenged" customers on a request that the evidence shows stands to only benefit the ARGS industry.

E. Ratepayers are at Risk of Paying for the Rider POR Utility Investment through Future Rate Base Treatment.

While the Proposed Order concludes that ratepayers will be sufficiently insulated from any costs associated with implementing Rider POR (PO at 33), ratepayers face rate impact risk in another way should Rider POR be approved by the Commission. As noted by Staff witness Rochelle Phipps, while the primary proposal is for PGL/NS to collect capital costs plus a carrying charge associated with implementing Rider POR from ARGS, there is a possibility that the utility will face unrecovered capital costs associated with implementing the tariff at some point in time. Staff witness Ms. Phipps recommended in testimony that should the situation arise where the utilities sought recovery from ratepayers of unrecovered capital costs, the rate of return on investment should be set at a lower rate of return that rate base assets. ICC Ex. 2.0 (Phipps Direct) at 2. She noted that the Commission has endorsed this principle when retail customers have effectively guaranteed the recovery of assets through rider mechanisms that ensure dollar-for-dollar recovery for a utility. *Id.* She explained that the "investor-required rate of return for POR assets is lower than the investor-required rate of return for rate base assets." *Id.* at 3.

PGL/NS witness Egelhoff rejected this proposal. She argued that if the Utilities "were to request inclusion in rate base of assets associated with Rider POR system functionality, those assets should not be differentiated from other rate base assets." PGL/NS Ex. 3.0 (Egelhoff Direct) at 3-4. While she clarified that under the Utilities' proposal, the Utilities do not plan to request rate base treatment under a scenario wherein ARGS supply credit assurances, "if this proposal is rejected or unsuccessful, *i.e.*, if the low risk design is not in place, the Utilities may seek rate base treatment." *Id.* at 4. The Proposed Order fails to adopt Ms. Phipps recommendation as well. PO at 33-34.

This fact, coupled with the evidence discussed above of a lack of ratepayer benefit associated with the approval or Rider POR, supports Commission rejection of the proposed tariff.

III. EXCEPTIONS -- Proposed Language

In accordance with the arguments presented above, the People recommend that the Commission Analysis and Conclusion at pages 33 and 34 of the Proposed Order be modified as follows:

> The Commission ~~approves~~ rejects North Shore's and Peoples Gas' proposed purchase of receivables programs ~~as modified by the two tariff changes proposed by Staff and the clarification that the Utilities proposed in their rebuttal testimony~~. The rejection of this proposed tariff ~~is approval~~ includes Rider POR and the related changes to the Table of Contents and Rider UEA. The proposal fails to protect~~s~~ customers and non-participating suppliers from ~~any~~ the adverse consequences. Although ICEA/RESA and Staff identified potential benefits of the program for customers and suppliers, ~~. T~~the Commission is ~~not~~ persuaded by CUB's and the AG's arguments that the utilities have not made the case that their proposal is ~~not~~ just and reasonable, as is their burden under the Public Utilities Act.
>
> The Peoples Gas/North Shore Rider POR is a tariff specifically designed to address the billing, collection and

marketing problems of companies selling unregulated natural gas supply, not the provision of essential utility service. The Commission does not find it to be just and reasonable, as its features were never intended to promote the interests of ratepayers. In this regard, t~~T~~he Commission finds compelling the arguments made by the AG that Peoples and North Shore failed to meet their burden of proof to establish that their tariff proposal was just and reasonable under Section 9-201 of the Act. The utilities do not offer evidence of customer benefits, or even of a balancing of interests of the utilities and their customers in propounding this tariff, but only acknowledge the advantages the proposal offers alternative retail gas suppliers. Peoples/North Shore witness Egelhoff even admitted that the tariff is the result of demand by alternative suppliers, not customers. Furthermore, the utilities in this case utterly failed to properly consider the real-world impact of the tariff on ratepayers, as Peoples/North Shore admits they did not analyze the impact of the rider on retail gas prices for their customers. For example, as the AG pointed out, even though the tariff does not require customers to pay the direct costs of administering the tariff, there is every possibility that participating suppliers will pass on their own rider costs in increased rates to their own customers. ~~several elements of the rider that will protect customers and non-participating suppliers from cost responsibility for the service~~. ~~AGS that wish to use the service will pay the Utilities' costs of developing the system functionality to support the service. The credit assurances they must provide will both protect customers and non-participating suppliers from any costs but also participating suppliers from more than their share of the costs. Also, the proposed Effective Date is reasonable because it means the Utilities will not begin building the system functionality until at least one supplier has firmly committed to take and pay for the service.~~

Additionally, the utilities have announced that adoption of this tariff could even increase base rates should they fail to recover all of their capital costs associated with POR implementation. The possibility of unrecovered capital costs is a real enough possibility that a Staff witness proposed that the carrying charges associated with that under-recovery be set at a lower rate of return than rate base assets to reflect the lower risk of POR assets. The utilities witness countered that if that possibility arose, they would instead seek the higher levels of return commensurate with riskier assets.

While the Commission certainly has the authority to deny that treatment, the idea that the utilities are even now considering an increase in base rates in conjunction with Rider POR directly contradicts the argument that non-participating customers would not be affected by adoption of a POR tariff.

In rejecting this tariff, the Commission dismisses as substantive supporting evidence speculation offered by ICEA/RESA about the tariff's potential financial benefits or whether any benefit at all would be passed on to customers, just as we did in our 2012 decision to not grant Nicor Gas's request for a Purchase of Receivables program. Unsupported speculation by suppliers in this docket on the possibility of lower customer costs, or unwarranted presumptions that lower supplier collection costs will trigger the entry of a greater number of alternative suppliers who will then charge increasingly competitive prices do not serve to meet the utilities' burden of proof. Just as we stated with respect to Nicor's POR tariff, the utilities themselves must demonstrate, with credible substantive evidence, that the tariff balances utility interests with those of their customers.

Substantive evidence on the economic impact of POR tariffs was offered by CUB witness McDaniel, who described a recent report from the Commission's Office of Retail Market Development on the alternative retail electric market. That report detailed the growth in the number of competitive electric suppliers in Illinois, noting that the availability of a POR tariff for several years in that market has not resulted in lower prices for customers. In fact, as McDaniel cites from the ORMD report, during the June 2015 - May 2016 time period, alternative electric customers actually paid $79.7 million *more* than their counterparts purchasing electric supply from utilities The Commission observes that the unchallenged facts cited from this report about the real-world effects of a Purchase of Receivables tariff make it a far more credible piece of evidence than the conjectures about POR's economic effects advanced by proponents in this case.

Nor has credible evidence been presented to support the notion that lower collection costs for suppliers will necessarily be passed on to customers in the form of lower rates. Rather, Illinois' experience in the competitive electric market demonstrates that suppliers will instead use the advantage of being freed from collection costs to increase their rates. In this way, shifting the risk of gas supply revenue recovery to the utilities particularly threatens the economic well-being of the credit-challenged customers that the suppliers in this case claim to want to serve and has especially negative consequences for the State of Illinois' energy assistance coffers, since higher gas supply prices for credit-challenged customers means that available state funding will be less effective and help fewer customers stay connected.

~~The proposed discount factor is reasonable. The Rider UEA-GC factors are developed specifically for gas supply costs and a unique factor is determined for each service classification. The proposal to develop, after three years of information is available, POR specific factors is reasonable. These proposals adequately protect customers from uncollectible expense risk.~~
~~The Commission finds that other parts of the proposal, such as how disputed charges, credit reporting, and payments are handled, are fair to customers and suppliers.~~

~~The Commission finds that CUB's apprehensions are grounded in its concerns about whether choice programs are beneficial to customers and its particular concerns about Peoples Gas' customer base. This proceeding is not about the merits of choice programs in general or Peoples Gas' Choices For You℠ program in particular. The Commission has approved that program and customers are free to choose – or not – to purchase gas from alternative suppliers.~~

~~However, t~~T~~he Commission shares the concerns of CUB and the AG concerning the potential effects on low income and/or credit challenged customers arising from increased or aggressive AGS marketing as a result of Rider POR. The Commission also appreciates the importance of acting quickly to remedy potential abuse of low income and disadvantaged customers. The Commission therefore directs Staff to review on a monthly basis, the individual and aggregate AGS supplier rates that sales customers pay. In addition, the Commission directs Staff to monitor complaints to the Commission's Consumer Services Division as well as the AGS market for activity that could harm vulnerable consumers or constitute a threat to LIHEAP funding. Staff is directed to report to the Commission on these issues annually or more often if merited by market developments.~~

IV. CONCLUSION

WHEREFORE, the People of the State of Illinois respectfully request that the Commission enter an order consistent with the recommendations in the People's Brief on Exceptions.

Respectfully submitted,

People of the State of Illinois
By Lisa Madigan, Attorney General

By: ____/s/______________________
Janice A. Dale
Chief, Public Utilities Bureau
Karen L. Lusson
Assistant Bureau Chief
Illinois Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
Telephone: (312) 814-3736 (Dale)
Telephone: (312) 814-1136 (Lusson)
E-mail: jdale@atg.state.il.us
klusson@atg.state.il.us

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